IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 9318 OF 2005

Narayanlal Uderam Sharma... Petitioner.

Versus

Ms. Julie Danial Lucas..... Respondent.

Mr.Niranjan Shimpi i/by Mr. J.S.Deo
for the Petitioner.
None for the Respondent.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

Heard learned Counsel appearing for the petitioner.

2. Civil Suit No. 157 of 2002 which was filed for seeking decree of eviction on the ground of recovery of rent, bonafide requirement and hardship came to be allowed by the learned 5th Additional Judge, Small Causes Court at Pune, By the judgment and order passed and the suit was decreed and the defendant was directed to handover vacant and peaceful possession of the suit premises to the plaintiff within thirty days. Aggrieved by the said judgment and order, the

defendant filed Appeal No. 247 of 2005 which came to be partly allowed by the learned 13th Adhoc Additional District Judge, at Pune, vide his judgment and order dated 14th October, 2005. The lower appellate court, by the said judgment set aside the decree in respect of arrears of rent. However, confirmed the decree of eviction on the ground of bonafide need as passed by the learned trial Judge.

3. In this writ petition the judgment and order passed by the lower appellate court confirming the judgment and order of eviction passed by the learned trial Judge, under the Bombay Rents Hotels & Lodging House Rates (Control) Act is challenged. In Writ Petition No. 4138 of 2006, I have already taken a view vide order dated 24th August, 2006 that such decree can be challenged by filing a civil revision application under Section 115 of the Code of Civil Procedure. I have further observed that when such a statutory remedy is available, a writ petition under Article 227 of the Constitution of India need not be entertained.

4. Hence, the writ petition is disposed of as such with liberty to the petitioner to file a civil revision application and if such a civil revision

application is filed within a period of four weeks from today, the period of pendency of this writ petition be taken into consideration for condonation of delay, if any.

5. The ad-interim order granted earlier will continue to operate for a period of two weeks more from today.

6. Annexures to the petition memo be returned, if applied for.

7. Writ petition is disposed of, accordingly.

Sd/-

(B. H. MARLAPALLE, J.)